SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1953

No. 627

WILLIAM B. COLLINS, INDIVIDUALLY, AND AS TRUSTEE FOR JEREMIAH F. COLLINS, VERA COLLINS, SISTER MARY ST. URSULA AND CLARA COLLINS,

Petitioners,

vs.

ANN O'BRIEN, JEREMIAH SULLIVAN, ESTATE OF CATHERINE SULLIVAN, DECEASED, AND ESTATE OF SUSAN S. IRVING, DECEASED,

Respondents

PETITION FOR REHEARING ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

To The Honorable the Chief Justice of the United States and to the Associate Justices of the Supreme Court of the United States:

Come now the Petitioners, William B. Collins, individually, and Jeremiah F. Collins, Vera Collins, Sister Mary St. Ursula and Clara Collins, by William B. Collins, their attorney, and respectfully petition this Court for a Rehearing on their Petition for a Writ of Certiorari which said

Petition was denied by this Court by an Order made and entered herein on April 12, 1954.

WILLIAM B. COLLINS.

Certificate of Counsel

I, William B. Collins, counsel for the above petitioners do hereby certify that this petition is presented in good faith and not for delay and that this petition for Rehearing is restricted under the Rule to "other substantial grounds available to petitioner(s) although not previously presented."

WILLIAM B. COLLINS.

Argument for Rehearing

We respectfully submit that the case of the Respondents herein is based on records not in existence at the time in the year 1947, that Dennis Collins, a Washington, D. C. Attorney examined the records in the Parish of Schull, Cork County, Ireland. There was no record of an Andrew Collins which he could find in the Parish records for Schull Parish in 1947, when he made his search of records for the purpose of finding a record of Andrew Collins. He had in his possession a copy of a letter from Addison, N. Y. dated October 25, 1885, written for the purpose of locating relatives and stated in said letter that her family came from Whitecastle, East of Schull, Cork County, Ireland. Dennis Collins searched the Parish records of the Parish of Schull and he testified: "I went down to that vicinity, to several of these places mentioned in this letter. Q. Is that in County Cork? A. That is in County Cork, * * * and I didn't get any direct lead as to exactly where Andrew Collins might have come from.

I might say that while I was in New Market, I didn't check the church records there, because I didn't know that that was where he might have come from.

I was around Skibbereen and Schull and various other churches." (R. 60a)

But this was before the Irish countryside became aroused by newspapers over there and investigators looking for records of heirs who would inherit a large American Estate which was about to escheat.

At the time of his trip to Ireland, Dennis Collins had all the available information of Attorney Thomas Scalley, an attorney for the administrators. He knew from the death certificate that Andrew Collins must have been born in the year 1826. He knew the exact year and the exact place or Parish and being personally interested he would have easily found the baptismal Certificate of Andrew Collins if it were in Schull Parish.

The Special Master states that Irish Parish Records run from the year 1930 or 1940 (S. M. Report 24) (R. 3247). Is it possible that at the time Dennis Collins examined the Schull Parish records they ran only from 1930 and that the records between 1920 and 1930 were added? That in the later days from 1949 to 1952 when they were impounded or kept from Louis Altschuler's representative these records were changed? Dennis Collins was born in Ireland but came to America in early manhood. He was acquainted there and would have found this key record if it were there.

The entire case of the Respondents hinges right on that baptismal record which was not there in 1947. We bluntly question the authenticity of this baptismal record and the honesty and good faith of Jeremiah Sullivan the man in Ireland who started this claim of the Respondents and his counsel. He is now a successful claimant.

Said Jeremiah Sullivan states that he heard of this Estate

in America through Irish newspapers in 1949 but didn't think he was related until 1950 before going to Skibbereen to engage an attorney who contacted the present counsel for Ann O'Brien and others. He had made prior statements disclaiming any relationship to James L. Collins, Deceased (R. 63a). When he changed his mind and became a claimant for a share of this estate it aroused comment and he threatened persons who stated that he had denied relationship theretofore (R. 82a-83a). The records were altered or interlined during one night while an examination was in progress. Many pages were loose and some missing (R. 62a).

In our petition we called attention to delays and mistakes in procedure which we now pass by but they do dovetail right into what was happening in Ireland. We state without reserve that there has been fraud in this case and that it has been passed on—or the fraudulent facts have been passed on to present counsel by those practicing or permitting this fraud in Ireland and elsewhere. We have never been able to bring to trial the removal of the Administrators action and their failure to make a proper accounting and this fact and fraud regarding the baptismal certificate and the custody of the Parish records of Schull parish which were kept from Attorney Altschuler's representative for over three years are facts in this case which need to be further investigated and aired.

We knew of this fraud and the juggling of records but refrained from using it because we felt we had sufficient to induce this Court to grant the Writ on our Petition. We urge this question now to prevent a gross miscarriage of justice by being permitted to brief and argue this case before this Court.

We respectfully submit that the order denying the peti-

tion for a Writ of Certiorari be set aside, that a Rehearing be granted and a Writ of Certiorari issue.

Respectfully submitted,

WILLIAM B. COLLINS,
Attorney for Petitioners.

ROBERT L. COLLINS,
Of Counsel.

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HAROLD B. WILLEY,

Supreme Court of the United States

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WILLIAM B. COLLINS, Individually, and as Trustee for JEREMIAH F. COLLINS, VERA COLLINS, SISTER MARY ST. URSULA and CLARA COLLINS, *Petitioners,*

v.

ANN O'BRIEN, JEREMIAH SULLIVAN, ESTATE OF CATHERINE SULLIVAN, Deceased, and ESTATE OF SUSAN S. IRVING, Deceased, *Respondents.*

REPLY TO PETITION FOR REHEARING ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

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REPLY TO PETITION FOR REHEARING ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

Counsel for the respondents respectfully submit that the petition for a rehearing on the petition for a writ of certiorari in the above-entitled case should be denied for the following reasons:

I. The petition for rehearing does not present a "substantial ground available to petitioner although not previously presented" within the meaning of Rule 33 of this Court.

II. The petition for rehearing, by quoting out of context and by false statements, attempts to mislead this Court.

III. The petition for rehearing contains a false, scandalous and unfounded attack upon the integrity of members of the bar of this Court.

I. The Petition Presents No Substantial Ground Available to Petitioners.

At the time this case was pending before Judge Pine in the United States District Court on exceptions to the Amended Report and Award of the Special Master, the assertion was made by an attorney that one group of claimants had been refused an opportunity to examine certain church records in Ireland. Although all other claimants admitted that Father Daly, the pastor of the parish church of Schull, had given them free access to his records, this one attorney asked for a postponement in order that Louis Altschuler (who was not in the case as an attorney but as a genealogist) might go to Ireland to inspect the records. Judge Pine granted that request.

The affidavit filed by Altschuler, which appears in an emasculated form at pages 62(a) et seq. of the record, was answered by affidavits filed by Father Daly and by Daniel Boland, Solicitor, of Skibbereen, County Cork, Ireland. Photo-copies of the church records were made available to Judge Pine. After considering the entire record of the case, including the more than 3000 pages of testimony taken before the Special Master, the hundreds of exhibits, the affidavits and counter-affidavits and the photo-copies of the Irish church records above referred to and after hearing full argument by counsel, Judge Pine concluded that all pending exceptions to both the original Report and Award and to the Amended Report and Award should be overruled. (R. 73a; R. 72a).

This petition is merely an attempt to thresh old straw. In fact it deals with someone else's old straw. The exception made to the Special Master's Amended Report and Award

on the basis of non-access to the church records at Schull was made on behalf of the Witman-O'Connor claimants and not by the petitioners. The Witman-O'Connor claimants have long since withdrawn from this case.

II. The Petition For Rehearing, By Quoting Out of Context And By False Statements, Attempts To Mislead the Court.

The petition (pp. 2, 3) attempts to give the Court the impression that Dennis Collins had made a careful, genealogical study of the records at Schull. It even states that "He (Dennis Collins) knew the exact year and the exact place or Parish and being personally interested he would have easily found the babtismal certificate of Andrew Collins if it were in Schull Parish". (Petition for Rehearing, p. 3).

The truth appears from Mr. Dennis Collins' own testimony. He stated that he had gone to Cork City and, amplifying his testimony, continued:

> "That is in County Cork. And the difficulty *in.* (I) ran into there was that in the places I went there were so many Collins' and I didn't get any direct lead as to where Andrew Collins might have come from."

The reason other investigators had failed to find the birth record of Andrew Collins might have been that they were searching for the child of a woman whose maiden name was Driscoll because the letter on which all searches were based had referred to his mother's relative as a Minihane Driscoll, whereas the maiden name of Andrew Collins' mother was Ellen Minihane. (R. 165 et seq.).

Furthermore, it is significant that Dennis Collins himself has never attacked the authenticity of the baptismal record of Andrew Collins. On the contrary, when he was requested to file a motion defamatory of Father Daly, he withdrew from the case as attorney for the Witman-O'Connor claiments. Collins is a practicing attorney in the District of Columbia and his testimony can readily be made available to the Court if needed.

III. The Petition For Rehearing Contains a False, Scandalous and Unfounded Attack Upon Members of This Bar.

On page 3 of the petition for rehearing the following statement appears:

> "The entire case of the Respondents hinges right on that baptismal record which was not there in 1947. We bluntly question the authenticity of this baptismal record and the honesty and good faith of Jeremiah Sullivan the man in Ireland who started this claim of the Respondents *and his counsel.*" (Emphasis supplied)

In the first place all of the claimants who actively participated in the reopened hearings before the Special Master pitched their claims on the authenticity of the records in the parish of Schull. (See Exhibit "A" R. 175 and Exhibit "B" R. 176).

In fact the Altschuler affidavit does not itself say that the Andrew Collins baptismal certificate was *"not there in 1947"*. On the contrary, Altschuler's affidavit had attached to it a photo-copy of the baptismal certificate showing the child's name as "Andy".

It is not true that Jeremiah Sullivan started anything. Counsel were requested to look into the matter for one Patrick J. O'Brien. Upon investigating the facts, they reported to him that he could not properly intervene unless he could show certain facts which antedated the church records at Schull (which commenced in the second decade of the *Nineteenth* century). O'Brien refused to acknowledge that he was not a claimant and continued to pore over the church records. It was he who discovered the confusion between the names "Minihane" and "Minihane Driscoll" and that the Jeremiah Sullivan family were the true distributees.

The foregoing facts were all developed by testimony at a time (April 1950 and October 1950) when the petitioners were boycotting the hearings before the Special Master.

On page 4 the following statement is made:

> "The records were altered or interlined during one night while an examination (by Altschuler) was in progress."

Again on page 4 the petitioners aver:

> "We state without reserve that there has been fraud in this case and that it has been passed on or the fraudulent facts have been passed on to present counsel by those practicing this fraud in Ireland and elsewhere."

The counsel representing the respondents are

Daniel Boland, Solicitor, Skibbereen, County Cork, Ireland,
George W. Cornell, Esquire, of the New York bar,
Al. Philip Kane, Esquire,
Charles Vinton Koons, Esquire,
William A. Kehoe, Jr., Esquire,

the last three named being all members of the District of Columbia bar and the bar of this Court. All of the named counsel are unjustly defamed by these untrue averments which are neither supported by evidence nor supportable in fact.

It is obvious that some one or more persons should be disbarred from further practice in this Court, either some or all of the counsel for the respondents for having committed the alleged frauds on the lower courts, or counsel for the petitioners for having made a vicious and libellous attack upon counsel for the respondents.

Further answering the said petition, Al. Philip Kane, one of the counsel for the respondents, advises the Court that on, to wit, August 19, 1953, he personally scrutinized the records at the parish of Schull and found them to be in good order and without any appearance of recent changes or interlineations and that he verily believes all

of the records presented on behalf of his clients in the District Court to be genuine and honest.

The petition should be dismissed.

Al. Philip Kane
Charles V. Koons
William A. Kehoe, Jr.
1331 G Street, N. W.
Washington 5, D. C.
Attorneys for Respondents.

District of Columbia, ss:

I, Al. Philip Kane, being first duly sworn, on oath depose and say that I have read the foregoing and annexed Reply to Petition for Rehearing on Petition for a Writ of Certiorari, by me subscribed and know the contents thereof and that I verily believe the matters of fact therein stated to be true.

Al. Philip Kane

Subscribed and sworn to before me this 7th day of May, 1954.

Evelyn C. Hynson
Notary Public, D. C.

(*Notarial Seal*)